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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,174	05/10/2001	Johan Cornelis Talstra	NL000262	5915

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

POLTORAK, PIOTR

ART UNIT

PAPER NUMBER

2134

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/853,174

Applicant(s)

TALSTRA ET AL.

Examiner

Peter Poltorak

Art Unit

2134

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 1-7 and 10-20.
Claim(s) objected to: _____.
Claim(s) rejected: 8-9.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: See Continuation Sheet.

Continuation of 13. Other: 4. Applicant's arguments have been carefully considered.

5. On 8/6/2001 documents (signed on August 3, 2001) indicating the enclosure of a proper oath or declaration has been received from applicant. However, the attached oath or declaration could not be located. Applicant is requested to provide a copy of the correct oath or declaration.

6. Applicant attempted to address 35 U.S.C. 112, second paragraph rejection in regard to claim 8. Applicant recites that the specification on pg. 5, lines 15-21 clearly discussed this subject matter and defines the foregoing terminology.

7. The examiner agrees that pg. 5 lines 15-21 discusses the subject matter but disagrees that the discussion is clear. The examiner would appreciate explanation of the subject matter so that the limitation could be address accordingly.


8. For example what exactly "its output is 1/s biased by interpreting emitted symbols "0" ... 's-n-1' as 'unencrypted' and 's-n' as 'encrypted'" means?

9. Even the example in the specification (provided above, out of every s packs, s-1 are unencrypted and 1 is encrypted) is confusing. For example, if there are 4 packs according to the example, 3 are unencrypted and 1 is encrypted. The way that the example is presented it one can only assume that the example refers to the number of packs and not the packs number. In other words in this example 3 packs of 4 and not packs 1-4 are unencrypted.

10. The example has some problems, e.g. it is not clear what happens when there are only one pack. Similar problem is observed with the claim limitation. Say $s=8$ $n=3$. According to the limitation the output is 1/s biased (?) by interpreting emitted symbols "0...4 as "unencrypted" and 5 is encrypted. In this case in the contrary to the example seems to refer to the order of the packs. Furthermore, it is unclear what if anything happens to packs 6-8.

11. Applicant attempted to address 35 U.S.C. 112, second paragraph rejection in regard to claim 9 citing the specification pg. 5, lines 22-25 that recites: "In an alternative embodiment of the invention the second signal is embedded in the first signal by selecting a key for at least partly encrypting the information form one of at least two groups of keys. As an example the keys used to encrypt the content are 40 bits long". The following statements not only clarify the limitation but in fact refer to another embodiment.

12. As the examiner pointed out in the previous Office Action it is not clear how it is possible to embed a signal by selecting a key from groups of other keys..


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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENT.